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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,890

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EXAMINER

PATEL, MANGLESH M

ART UNIT

PAPER NUMBER

2178

MAIL DATE

DELIVERY MODE

06/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/539,890	Applicant(s) ADAMS JR. ET AL.	
	Examiner MANGLESH M. PATEL	Art Unit 2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Non-Final action is responsive to the amendment filed on 2/25/2008.
2. Claims 1-19 are pending. Claims 1, 10 and 19 are independent claims.

Withdrawn Rejections

3. The 35 U.S.C. 102(b) rejections of claims 1, 3,5-10, 12, 14-19 with cited reference of Sevasti (NPL –ACM multimedia) has been withdrawn in light of the persuasive arguments.
4. The 35 U.S.C. 103(a) rejections of claims 2, 4, 11 and 13 with cited references of Sevasti (NPL –ACM multimedia) in view of King (U.S. 5,600,775) has been withdrawn in light of the persuasive arguments.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claim 1-19 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-19 respectively of co-pending Application No. 10/325061 This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
8. **Claim 1 is rejected under 35 U.S.C. 101** because the claim describes an apparatus describing software per se, the apparatus fails to include a hardware element for managing multi media content, instead the apparatus includes software. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Regarding Dependent claims 2-9, are rejected because they inherit the deficiencies of claim 1.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Vegas (Vegas 2.0 Users Manual, 2000, Sonic Foundry, pgs 1-411 (In PDF Format)).

Regarding Independent claims 1, 10 and 19, An apparatus for managing multimedia content, said apparatus comprising: an arrangement for supplying multimedia content; an input interface for permitting the selection, for observation, of at least one of the following modes associated with the multimedia content: an audio portion that includes video; and a video portion that includes audio; and an arrangement for annotating observations of a selected mode.

Vegas teaches a video editing software that includes an arrangement for supplying multimedia content such as the videos in the timeline shown in the figure (see page 29 in PDF format). The user selects the video or the audio for editing in the interface furthermore allowing the observation of each as shown along the timeline. The track view holds both video and audio annotations thus including observations of an audio portion that includes video or a video portion that includes audio. Furthermore the editing software allows the user to arrange the video mode or the audio mode for annotation along the timeline (see pages 45-107 & 109--119).

Regarding Dependent claims 2 and 11, Vegas discloses wherein said input interface permits the selection, for observation, of both of the following associated with the multimedia content: an audio portion that includes video; and a video portion that includes audio (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 3 and 12, wherein said input interface additionally permits the selection, for observation, of solely a video portion of multimedia content (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 4 and 13, wherein said input interface additionally permits the selection, for observation, of solely an audio portion of multimedia content (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 5 and 14, wherein said arrangement for supplying multimedia content comprises a working memory which stores multimedia files (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 6 and 15, wherein said input interface is adapted to: first permit the selection of a multimedia file and then permit the selection of said at least one of: an audio portion simultaneously with video; and a video portion simultaneously with audio (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 7 and 16, a working memory for saving the annotated observations of a selected mode (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 8 and 17, wherein said input interface is adapted to permit the selection, for observation, at least the following mode associated with the multimedia content: a video portion that includes audio (pages 29 & 45-107, including the explanation provided in the Independent claim).

Regarding Dependent claims 9 and 18, wherein said input interface comprises: an arrangement for permitting the selection, for observation, of a video mode of multimedia content; and an arrangement for selectably adding audio to the video mode for observation (pages 29 & 45-107, including the explanation provided in the Independent claim).

It is noted that any citation [[s]] to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. [[See, MPEP 2123]]

Response to Arguments

11. Applicant's arguments filed 2/25/2008 have been fully considered but are moot in view of the new grounds of rejections.

References Cited

12. The art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Newman et al. (U.S. 6,154,600) discloses "Media Editor For Non-Linear Editing System"
 - Hou et al. (U.S. 5,838,313) discloses "Multimedia-Based Reporting System With Recording And Playback Of Dynamic Annotation"
 - Purnaveja et al. (U.S. 6006,241) discloses "Production Of A Video Stream With Synchronized Annotations Over A Computer Network"

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manglesh M. Patel whose telephone number is (571) 272-5937. The examiner can normally be reached M-W & F from 6 am-1:30 pm & TH from 6 am -4 pm .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Manglesh M. Patel
Patent Examiner (AU 2178)
June 3, 2008

/Manglesh M Patel/
Manglesh Patel
Examiner, Art Unit 2178

/CESAR B PAULA/ Primary Examiner, Art Unit 2178
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